

## **complaint**

Mrs K has complained that Liverpool Victoria Insurance Company Limited settled another driver's claim against her under her motor insurance policy, when she didn't think the accident was her fault.

## **background**

Mrs K was involved in an accident in a supermarket carpark. She was pulling out of a space as the other driver came around the corner and hit her car. LV agreed to settle the other driver's claim under Mrs K's policy. It felt the accident was Mrs K's fault and there would be very little chance of avoiding paying the other driver's claim if she took legal action. Mrs K complained to LV. She didn't think the accident was her fault.

LV told Mrs K it didn't think it had done anything wrong, so she brought her complaint to us. The adjudicator told Mrs K he didn't think her complaint should be upheld.

Mrs K still thinks LV was wrong to settle the other driver's claim and so it's been passed to me for a decision.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We don't decide who's at fault for an accident, as this is the role of the courts. Instead, we look whether the insurer acted in line with the policy terms and whether its decision to settle the other driver's claim is fair and reasonable.

Like all motor insurance policies, under Mrs K's policy LV has the right to take over the defence or settlement of any claim. And it can make its own decision about whether it's reasonable to contest another driver's claim or settle it. This might mean LV makes a decision Mrs K doesn't agree with, but the policy allows it to do this. Although I look to see that it's a fair and reasonable decision in the circumstances.

Mrs K said she was pulling out of a parking space as the other driver came around the corner. This means it was her responsibility to make sure the aisle was clear before she drove forward. Mrs K thinks the other driver was going too fast. And there's a witness who's also said the other driver was going too fast. Although LV's said it believes Mrs K's account of what happened, I think it would be very difficult to prove how fast the other driver was going. I also think it would be difficult to prove Mrs K wasn't to blame if the other driver took legal action. As it was Mrs K's responsibility to make sure the aisle was clear I think it was reasonable for LV to settle the other driver's claim against her.

I appreciate it's frustrating for Mrs K, as she didn't think the accident was her fault. But I think LV has acted in line with its policy terms. And I don't think it has done anything wrong in settling the other driver's claim.

## **my final decision**

For the reasons discussed above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 15 February 2016.

Sarann Taylor  
**ombudsman**